IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO: 3726 of 1998

Between:

1 A.Kistaiah S/o Ramaiah
R/o Narsapur (V) & (M), Medak District.
2 A.Sathaiah S/o Ramaiah
R/o Narsapur (V) & (M), Medak District.
3 Mallaiah S/o Pentaiah
R/o Narsapur (V) & (M), Medak District.

... PETITIONERS

AND

The Mandal Revenue Officer
Narsapur Mandal , Medak District.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ or Writs, order or direction, declaring and setting aside the procs. dt 9-2-98 in Proc.No. C/2680/96 on the file of the respondents as illegal, arbitrary and without jurisdiction by directing the respondent not to interfere with the possession of the petitioners over the lands admeasuring Ac.1.30 guntas , Ac. 2.00 gts and Ac.1.30 gts respectively in S.No. 734 situated as Narsapur (V) & (M) Medak District.

Counsel for the Petitioners: MR.K.RAGHUVEER REDDY

Counsel for the Respondent: GP FOR REVENUE

The Court made the following:

ORDER:

This writ petition is filed seeking Mandamus declaring the proceedings dated 09-02-1998 in Procs.No.C/2680/96 on the file of the respondent as illegal and arbitrary and further direct the respondent not to interfere with the possession of the petitioners over the lands admeasuring Ac.1.30 guntas, Ac.2.00 guntas and Ac.1.30 guntas respectively in S.No.734 situated at Narsapur Village and Mandal, Medak District.

2. Petitioners, claiming to be owners and possessors of lands in an extent of Ac.1.30 guntas, Ac.2.00 guntas and Ac.1.30 guntas respectively in S.No.734 of Narsapur Village and Mandal Medak District, state that the said land was an *inam maktha* and after enquiry, they were given Occupancy Certificates in the year 1978 in Procs. File No.447/75 on the file of the Asst.Collector, Medak. It is the case of the petitioners that they were granted pattedar passbooks. However, when the respondent assuming the land to be a Government land, issued notices under section 7 of the Land Encroachment Act (for short 'the Act') on 21-01-1998, petitioners filed W.P.No.2770 of 1998 before this Court, and this Court directed the petitioners to file reply to the notice issued under Section 7. It is stated that petitioners submitted their explanation on 06-02-1998, but, it is alleged that respondent, without considering the explanation, passed orders under Section 6 of the Act and directed the petitioners to vacate the land within one day from the date of receipt of the said order, which gave rise to filing the present writ petition.

3. The respondent filed counter affidavit, stating that in a similar writ petition in W.P.No.4543 of 1998 filed by one
Mr. M.K. Venkateshwara Rao and others, this Court dismissed the writ petition at the admission stage, against which, petitioners therein carried the matter in appeal in W.A.No.378 of 1998, wherein a Division Bench of this Court passed the following order. -

> " *In the circumstances, the Order dated 8-1-1998 of the 1st respondent is set aside and so also the order passed by the Assistant Collector conferring occupancy certificates and the matter is remitted back to the Assistant Collector-2nd respondent herein to conduct enquiry*

afresh after affording opportunity to the appellants, their predecessors-in-title as also the 4th respondent-Mandal Revenue Officer and decide firstly as to whether the above land is inam land or not and basing upon the said decision, proceed further under the relevant provisions of the statute as may be applicable. This exercise shall be made by the 2nd respondent within a period of six months from the date of receipt of a copy of this order. We make it clear that pending such decision, status-quo as obtained on this day with regard to possession of the land shall be maintained.

The Writ Appeal is allowed to the extent indicated above. No costs".

4. Learned Government Pleader expressed no objection for passing a similar order in this writ petition.

5. Having regard to the facts and circumstances of the case, and following the ratio in the aforementioned judgment, the impugned order dated 9-2-1998 is set aside and the respondent is directed to decide firstly as to whether the above land is inam land or not and basing upon the said decision, proceed further under the relevant provisions of the statute as may be applicable and pass appropriate orders within a period of six months from the date of receipt of copy of this order. Till such time, status quo existing as on today shall be maintained.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J

February 21, 2005

Tvk/MRR

Copy to:

1. The Mandal Revenue Officer
   Narsapur Mandal , Medak District.

2. Two C.C. s to the G.P. for Revenue, High Court Buildings,

Hyderabad (OUT)

3. Two C.D. Copies Government Pleader for Revenue, High Court of A.P.Buildings, Hyderabad (OUT) .